

LAW AND PUBLIC SAFETY

OFFICE OF THE ATTORNEY GENERAL

Office of the Insurance Fraud Prosecutor

Insurer Reporting Requirements

Proposed New Rules: N.J.A.C. 13:88-2

Authorized By: Peter C. Harvey, Attorney General of New Jersey

Authority: N.J.S.A. 17:33A-1 et seq., Executive Reorganization
Plan No. 7 (1998) and Executive Order No. 9 (Hughes)

Calendar Reference: See Summary below for explanation of
exceptions to calendar requirement.

Proposal Number: PRN 2004-129

Submit comments by June 4, 2004 to

Greta Gooden Brown

Assistant Attorney General

Insurance Fraud Prosecutor

Department of Law and Public Safety

P.O. Box 094

Trenton, N.J. 08625-0094

The agency proposal follows:

Summary

These rules are proposed in response to the enactment
of N.J.S.A. 17:33A-22 of the New Jersey Insurance Fraud
Prevention Act, which authorizes the Office of the Insurance
Fraud Prosecutor (OIFP) to provide for the reporting of stolen
vehicle and automobile accident claims information in a standard

reporting form, for the purpose of identifying patterns of possible fraudulent activity. The OIFP, which is established in the Division of Criminal Justice in the Department of Law and Public Safety, is under the supervision of the Attorney General. The OIFP, through agreements with the Insurance Services Office, Inc. (ISO), will analyze the data to identify patterns of fraudulent activity.

Nothing in these proposed rules affects or alters the statutory obligation found at N.J.S.A. 17:33A-9 to report violations of the New Jersey Insurance Fraud Prevention Act to the OIFP.

The proposed new rules address the procedures for insurers to report information about stolen vehicle claims and automobile accident claims to the OIFP.

Proposed new rule N.J.A.C. 13:88-2.1 sets forth the scope of the subchapter, which is the implementation of those rules necessary to require insurers writing at least \$2,000,000 in direct insurance premium in any calendar year to report stolen vehicle claim information and automobile accident claim information to the OIFP.

Proposed new rule N.J.A.C.13:88-2.2 contains the definitions which are necessary for the implementation of the subchapter. In particular, the proposed new rule defines "insurer" for purposes of the subchapter only, as an insurance

company that writes at least \$2,000,000 in direct insurance premiums in any calendar year.

Proposed new rule N.J.A.C.13:88-2.3 provides for the liberal construction of these rules to permit the OIFP to discharge its statutory mandate. Upon notice to all parties, the rules may be relaxed in a particular situation to effectuate the purposes of the New Jersey Insurance Fraud Prevention Act. Statutory time limits shall not be relaxed.

Proposed new rule N.J.A.C.13:88-2.4 provides for the procedure to be used by insurers to report stolen vehicle claim information and automobile accident claim information.

Proposed new rules N.J.A.C. 13:88-2.5 and 2.6 require insurers and ISO to cooperate with each other in complying with the reporting requirements of the subchapter.

Proposed new rule N.J.A.C. 13:88-2.7 establishes a seven year record retention requirement for ISO.

Proposed new rule N.J.A.C. 13:88-2.8 provides for imposition of penalties if the requirements of the subchapter are not met.

Proposed new rule N.J.A.C.13:88-2.9 provides for the severability of any provision of these rules adjudged to be invalid.

Proposed new rule N.J.A.C. 13:88-2.10 provides that all information and materials received by, created by, accessed by or

maintained by the OIFP pursuant to these rules concerning the existence or occurrence of insurance are confidential and not subject to public access pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The Appendix contains a list of the data required to be submitted for stolen vehicle claim information and automobile accident claim information.

Because the OIFP is providing a 60 day comment period, the proposal is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules articulate the statutory reporting requirements established in N.J.S.A. 17:33A-22 for stolen vehicle claims information and automobile claims information for insurers writing at least \$2,000,000 in direct premiums in any calendar year. The collection of this claims information should assist the OIFP and the insurance industry in identifying and addressing insurance fraud.

Economic Impact

The proposed new rules may have an economic impact on some insurers. The insurers who do not already subscribe to ISO and report information using either the ISO Legacy or Universal Format, may choose to subscribe as a result of these rules. However, those insurers are not required to subscribe to ISO in

order to report the necessary claims information. Those insurers may simply submit the claims information, without paying a fee, to the OIFP. These same insurers, however, may incur some additional expense in collecting the information from within their own companies, if the information is not currently collected and stored in a readily available format. In addition, those carriers who subscribe to ISO but use the Legacy format will have to change to the ISO Universal format and may incur additional expenses in making the transition from the ISO Legacy format to the ISO Universal format.

Federal Standards Statement

A Federal standards analysis is not required as the rules set forth in this chapter regulate the fraud prevention and detection activities of insurers in this State. These rules relate to insurance carriers reporting information which is the subject of State law and is not subject to any Federal requirements or standards.

Jobs Impact

The OIFP does not anticipate that any jobs will be gained or lost as a result of these proposed rules. The OIFP invites commenters to submit any data or studies concerning the jobs impact resulting from these proposed new rules if any exists.

Agriculture Industry Impact

The OIFP does not anticipate any impact on the agriculture industry from the new rules.

Regulatory Flexibility Analysis

The proposed new rules may impose compliance requirements on "small businesses" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. because some insurers writing at least \$2,000,000 in direct insurance premiums each calendar year may have fewer than 100 full-time employees and are not dominant in the field. Some small businesses may incur some minimal additional expense in collecting the information from within their own company if the information is not currently collected and stored in a readily available format. These small businesses may, however, submit the collected claims information to the OIFP without a fee. The OIFP does not believe the hiring of additional staff or professional services will be required to comply with these rules.

The OIFP does not believe that the proposed new rules will impose an undue burden on small businesses. The proposed new rules implement section 22 of the Act, requiring insurers writing at least \$2,000,000 in direct premium each calendar year to report stolen vehicle and automobile accident claims in order to identify patterns of fraudulent claims. The OIFP does not believe that further variation of compliance requirements based on size, beyond the \$2,000,000 in direct written premium in a

calendar year required by section 22, will be consistent with the goal of the Legislature in section 22.

Smart Growth Impact

The proposed new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules follows:

CHAPTER 88

OFFICE OF INSURANCE FRAUD PROSECUTOR

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. INSURER REPORTING REQUIREMENTS

13:88-2.1 Scope

This subchapter applies to all insurers in the State of New Jersey who write at least \$2,000,000 in direct insurance premium in any calendar year.

13:88-2.2 Definitions

For purposes of this subchapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

"Insurer" means any insurance company as defined in N.J.S.A. 17:33A-3, which writes at least \$2,000,000 in direct insurance premiums in any given calendar year.

"ISO" means the Insurance Services Office, Incorporated.

"OIFP" means the Office of the Insurance Fraud Prosecutor in the Division of Criminal Justice in the Department of Law and Public Safety.

"OIFP database" means that claims information database maintained by the OIFP pursuant to N.J.S.A. 17:33A-22.

"Universal Format" means that particular ISO database format by which insurers electronically transmit automobile insurance claims information to ISO.

13:88-2.3 Construction

(a) These rules shall be liberally construed to permit the OIFP to discharge its statutory function.

(b) Upon notice to all parties, these rules may be relaxed by the OIFP for good cause in a particular situation in order to effectuate the purposes of the New Jersey Insurance Fraud Prevention Act. Statutory time limits shall not be relaxed.

13:88-2.4 Claims Reporting

(a) Within 180 days of the effective date of these rules, insurers shall report to the OIFP or, in the alternative, to ISO using the ISO Universal Format (incorporated herein by reference in the subchapter Appendix), all motor vehicle losses closed with payment and all motor vehicle losses closed without payment as follows:

1. Information collected during the normal course of business on stolen vehicles including, but not limited to, the owner's name and address, the insured's name and address, policy number, claim number, coverage type, year and make of vehicle, vehicle identification number, date of loss, and location of loss; and

2. Information collected during the normal course of business on automobile accidents including, but not limited to, insured's name and address, policy number, coverage type, claimants' names and addresses, year and make of involved vehicles, the date and location of the accident, persons involved in the accident, alleged injuries, and treating health care providers.

(b) Within 60 days of the effective date of these rules, each insurer shall notify the OIFP of its intention to comply with the rules by reporting directly to the OIFP or providing the information through ISO and the ISO Universal Format. Insurers shall also indicate which of the data elements listed in the Appendix they collect during the normal course of business on stolen vehicle and automobile accident claims. Notice shall be in writing and directed to: Raymond Shaffer, IT Services Manager, Department of Law and Public Safety, Division of Criminal Justice, P.O. Box 085, Trenton, N.J. 08625-0085.

(c) Once reporting under (a) has begun, insurers shall submit the data referenced in (a) above within 30 days of the closing of a claim.

(d) Insurers unable to meet the reporting deadlines established in these rules may apply in writing to the OIFP for an extension of the reporting deadlines. The OIFP shall grant reasonable extensions of time for good cause.

13:88-2.5 Insurer cooperation with ISO

Insurers shall cooperate with ISO and shall release information in their possession to ISO upon ISO's reasonable request.

13:88-2.6 ISO cooperation with insurers

ISO shall cooperate with insurers in the resolution of errors in reporting motor vehicle loss information required under this subchapter.

13:88-2.7 ISO record retention

ISO shall retain all information required to be reported to it under this subchapter for a period of at least seven years from the date of entry into the ISO database.

13:88-2.8 Penalties

Failure of an insurer to abide by the requirements of this subchapter may lead to the imposition of sanctions or penalties as provided by law.

13:88-2.9 Severability

If any rule, sentence, paragraph or section of these rules, or the application thereof to any persons or circumstances, shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any rule shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these rules.

13:88-2.10 Confidentiality

All information and materials accessed by, received by, created by, or maintained by the OIFP pursuant to these rules concerning the possibility of the existence or occurrence of insurance fraud or related criminal activities are confidential and shall not be subject to public access pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

APPENDIX

ISO Universal Format

Insuring Company (ISO assigned code)

Policy Number

Policy Type

Claim Number

Date of Loss

Location of Loss Address (incl State)

First Name (Choose either Role IN or CI)

Last Name (Choose either Role IN or CI)

Business Name (Choose either Role IN or CI) - required if a
Business

Address Information

City

State

First Name (Role CL)

Last Name (Role CL)

Address Information

City

State

Second (or other) Claimant First Name (Choose Role from ISO
Appendix C)

Second (or other) Claimant Last Name (Choose Role from ISO
Appendix C)

Second (or other) Claimant Business Name (Choose Role from ISO
Appendix C)

Address Information

City

State

Coverage Type

Loss Type

Alleged Injuries/Property Damage

Vehicle Year

Vehicle Make (Abbrev)

VIN

Date of Recovery (Theft)

Vehicle Make

Recovering Agency

Condition of Recovered Vehicle (theft)

VIN

Owner Retaining Salvage Indicator

Date of Salvage

Buyers Business Name **OR**

Last & First Name (if owner did not retain salvage)

Role in Claim

Role in the Claim; if Service Providers reported with claim, their names, address required

Individual/Business Indicator

Business Name (if a Business)

Last Name

First Name

City

State